

From: [scott](#)
To: [Zachery Darnell](#); [Hestin, Nellie E.](#)
Cc: [pSmalto](#); [Shaw, Jarrod D.](#); [Daniel Barham](#)
Subject: pSmalto - documents, data, and testimony - follow-up questions
Date: Friday, October 14, 2022 5:08:36 PM

Hello Mr. Darnell and Ms. Hestin,

Thank you for your much-appreciated efforts in responding to my questions / requests for clarification.

As I just emailed, as we've been working through your responses prior to today, we have six sets of follow-up questions to finalize the related clarifications:

From my:

1. 9/27 email, item A-3 ("who generated"), Mr. Darnell's answer was:

"All of this **data came from** the e-commerce/campaign backend (i.e. Shopify). Ms. Venkataraman said that it is her memory that these were exports used to reconcile accounts at the end of a campaign. The data for each campaign **would be exported** from the e-commerce system and/or backend system in use for that campaign (Shopify, Woocommerce, etc). It was as simple as selecting a report type, a date range, and clicking **export which would generate a csv file**. That file would be opened, and the data would be added as a tab to the master excel sheet for each account. The data was updated each time a campaign was closed, so the file was continually updated over many months with multiple people involved."

My follow-up:

After our preliminary exam of the QuickBooks ("QB") access that we were provided, it appears that the data is not contained within QB. You reference "the e-commerce/campaign backend (i.e. Shopify)".

Specifically (not "i.e."):

- a. Where (i.e. what system/data source) did the 3 spreadsheets ("SS") come from?
- b. Where are those systems/data sources now?
- c. Who generated the exports/.CSV files?
- d. Where are (and please provide) the original .CSV files?

2. 9/27 email, item A-4 ("sales tax returns"), Mr. Darnell's answer was:

"Vimala was a service provider, so Vimala's services were not taxable, and it was not required to collect or remit sales tax for the services provided. Vimala only had Nexus in Tennessee, so it filed \$0 sales tax returns in TN. . . . We have included Ms. Venkataraman's and Vimala, LLC's federal tax returns along with the state sales tax documents in order to provide additional context."

My follow-up:

After our preliminary exam of the recently provided tax documents: From the previously provided 3 SS, the January 2017 campaign of ICSP has approximately: 400 transactions, for 800 units, at \$55, for a \$50k gross sales, with \$11k of returns, (thus \$39k of net sales), \$2k of sales taxes, for a total net of \$41k.

a) Can Ms. Venkataraman (or if not her, then can someone else) explain the discrepancy between “no sales tax returns” versus the reported \$2k of sales taxes charged as related to just the 1/’17 ICSP campaign?

The tax returns and QB data show gross revenues in 2016 of \$0 and in 2017 of \$121k. The 3 SS show 2017 transactions totaling approximately: \$1.6mm gross sales, \$100k returns, \$1.5mm net sales, and \$33k of taxes.

For 2017 transactions, QB shows:

- “2017 Uncollected Pre-Sales” of just 3 journal entries (\$801k, \$429k, and \$314k = \$1.5mm), all made on 12/31/2017 (presumably made by Michael Vaden, of the Vaden Group, during his QB access of 1/20/2018 854am-922am, and not during his most recent prior access of 12/6/2017 at 900am)
- “Other Income” of \$121k from the Skyway Studios Settlement
- “Sales” of only \$209 from 4 Stripe transfers in December (11 (\$23), 26 (\$61), 27 (\$39), and 28 (\$86))
- No entries for any product returns or sales taxes.

b) Can Ms. Venkataraman (or if not her, then can someone else):

- i) explain the discrepancy between the noted QB and SS income/etc. data versus the filed/provided tax returns?
- ii) confirm that it was the Vaden Group that made those 3 journal entries, or if not, then who?

3. 10/10 email, follow-up (“Plaintiffs’ forensic consultants”) to 9/27 B-4, Ms. Hestin’s answer was:

“We don’t have any further insight or knowledge into any other professionals (besides Mr. Lanterman) and we would have to defer to Plaintiffs’ counsel to respond.”

My follow-up:

- a. Who are the other forensic experts that examined Plaintiffs’ data and devices related to this matter, other than Mr. Lanterman?
- b. What documents/etc exist that have any details of their work, including the “two professionals at 360 Security (who) were also retained as experts for the plaintiff” as

referenced in Mr. Lanterman's depo 23:4-25.

4. 9/27 email, item B-4 ("copy of My Sql database"), Ms. Hestin's answer was:

"Plaintiffs' forensic consultants extensively reviewed the NAS and were unable to locate the database in SQL, .csv, or another format" (Also, B-7 response "Plaintiffs remain in possession of the NAS")

My follow-up:

- a) Who performed the "extensive review" of the NAS?
- b) What tools, methods, and criteria were used to perform that review?
- c) Was there a forensic (or other) preservation of the NAS prior to that review, or was the NAS examined in a live and unpreserved state?

5. 9/27 email, item B-9 ("copy of her laptop"), Ms. Hestin's answer was:

"Ms. Venkataraman testified that she searched it for responsive information"

My follow-up:

- a) Was Ms. Venkataraman the only person who searched the laptop for responsive information?
- b) What tools, methods, and criteria were used to perform that search?
- c) Was there a forensic (or other) preservation of the laptop prior to that search, or was the laptop examined in a live and unpreserved state?

6. 9/27 email, item B-6 ("copy of the QuickBooks system"), Ms. Hestin's answer was"

"Plaintiffs will provide (temporary access to Vimala's QuickBooks system) via separate communication"

My follow-up:

Our objective was to examine the QB system, and export some of the data. The access that I was granted was limited, and prevented me from being able to complete my work.

- a) Please provide more complete access so I can complete my examination and exports.

b) What roles did each of the following 4 “people” have in accessing the QB system in 2016 and 2017: i) Samantha Rohling (2016: 10/6-10/11), ii) Brooke (2017: 1/30-3/13), iii) Anita Rogers (2017: 8/3-8/18), iv) Vaden Group (2017: 8/17-12/6)?

c) In 2016 and 2017, besides Ms. Venkataraman, were they the only users of QB? If not, who were the others?

d) Were the date ranges listed above the only dates that the listed users accessed QB?

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Mr. Darnell and Ms. Hestin, although I referenced who I received each answer from above, my above follow-up items request the related answers from whoever has the best access to the requested info. Since today (10/14) is the last day that our prior schedule used for our agreed-upon 9/27 requested (A) and (B) items, is 10 days from today (10/24) a reasonable time to allow you to answer these follow-ups?

Thank you.

With best regards,

-scott.